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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
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EXAMINER

ART UNIT	PAPER NUMBER
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DATE MAILED:

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

OFFICE ACTION SUMMARY

☒ Responsive to communication(s) filed on January 25, 2002

☐ This action is FINAL.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

- ☒ Claim(s) 1-20 is/are pending in the application.
Of the above, claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-20 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) _____
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

- ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- ☒ Notice of Reference Cited, PTO-892
- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Notice of Informal Patent Application, PTO-152

--SEE OFFICE ACTION ON THE FOLLOWING PAGES--

BEST AVAILABLE COPY

Art Unit: 3739

1. The abstract of the disclosure is objected to because it is not single paragraph form. Correction is required. See MPEP § 608.01(b).

The disclosure is objected to because of the form of the specification for example that portion spanning pages 76-105. Beginning with the section Labelled ADDITIONAL EMBODIMENTS on page 76 there are numbered paragraphs which appear to be in the form of claims, and refer back to prior paragraph numbers with the referent "claim" but do not appear to be intended to be claims as they are in the section succeeding the legend "WHAT IS CLAIMED IS" and some (e.g. 141) are not in single sentence form and make reference to drawing figures. Further the section succeeding "I claim" does not have the recitations therein commencing on a separate page. Applicant should extensively amend the disclosure to put it in proper form.

On September 26, 2002 the examiner contacted Mr. Albin H. Gess regarding the claims to be examined. After a brief discussion wherein it was determined that 20 claims had been paid for and that only the 20 claims preceeded by "What is claimed Is" are to be examined.

It is noted that the amendment filed January 25, 2002 is improper as no clean and marked up copies of the paragraph involved are included. This amendment has not been entered and applicant may make any such changes when the amendment putting the disclosure in proper form is filed.

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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3. Claims 6-9, 14, and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 9 "the skin" and "the epidermis" both lack positive antecedent basis and the meaning of the term "removal of at no more than" is unclear. In claim 14 it appears that "metho" should be – method --. In claims 6-8 and 20 "the light energy" lacks antecedent basis.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 5, 14 and 16-19 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Waldman et al.

6. Claims 1-9, 12, 13, 15 and 20 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Tankovich et al.

See column 1, line 50 – column 3, line 67; column 10, lines 5-19 and column 28 line 10 to column 34 line 44, almost 100% of the light energy striking the particle will be absorbed thereby.

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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8. Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tankovich et al. Tankovich teaches a method such is claimed except the particular vehicle for the particles: the use of paper as the vehicle and the use of agar as the vehicle. It would have been obvious to the artisan of ordinary skill to use paper as the vehicle since paper has been used in protective dressings official notice of which is hereby taken and use agar as the gel, since agar is a widely known gel and Tankovich et al place no limitations on the gel to be used and since the use of agar as the vehicle in the instant method is not critical thus, producing a method such as claimed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Shay whose telephone number is (703) 308-2215.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.

David Shay:bhw
October 17, 2002

October 8, 2002



DAVID M. SHAY
PRIMARY EXAMINER
GROUP 330